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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Talladega and Munford, Alabama)

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MB Docket No. 04-19
RM-10845

Federal Communications Commission
Office of Secretary

Comments of Calhoun Communications

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Calhoun Communications ("CC"), by counsel, hereby submits supplemental information in opposition to the reallocation of Channel 224A, Station WTDR to Munford, Alabama (the "Station" or "WTDR") and the concomitant modification of WTDR's license to reflect the proposed change of community.

In support whereof, CC states as follows:

I. Introduction

The Commission has properly demanded that WTDR's licensee, Jacobs Broadcast Group Inc. ("Jacobs"), demonstrate that Munford qualifies as an independent community under the principles expounded in *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) ("*Tuck*") in *Talladega and Munford, Alabama: Request for Supplemental Information*, DA 05-1149, MB Docket No. 04-19, RM-10845 (Released April 27, 2005) (the "Supplemental Request"). Once the Commission adds up the facts, it will be crystal clear that Munford is not independent of the Anniston, Alabama Urbanized Area and deserves no preference for first local service.

II. Procedural History

The Commission has identified the core issue in this case: that the proposed relocation of WTDR opens the door to "a two-step procedure to implement a migration of a station from a rural to an urbanized area." *Supplemental Request* at ¶ 3. As CC previously noted, Jacobs's

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proposed relocation of WTDR to Munford would allow “WTDR to penetrate more deeply into the larger and more lucrative Anniston Urbanized Area by switching to a . . . community from which Anniston could easily be blanketed later with a transmitter move.” *Sur-Reply of Calhoun Communications*, filed April 27, 2004, at 2. This is “a strategy that implicates localism to its very core because the designated community of license is nothing more than a ‘pit stop,’ served in name only during station identifications, while the station, in practice, serves more lucrative nearby urbanized areas.” *Id.* In the *Supplemental Request*, the Commission stated: “we concur with Calhoun that as a Munford station, Petitioner could relocate the Station WTDR transmitter to a site that would serve most of the Anniston Urbanized Area,” *Supplemental Request* at ¶ 3, and ordered the *Tuck* showing.

CC has demonstrated that Jacobs already markets WTDR as an Anniston station,¹ even though it is unable currently to blanket the Anniston Urbanized Area. CC already has a construction permit pending to move its transmitter to the site closest site to Anniston that is permissible with WTDR’s current Talladega allocation.² Jacobs also has a license to cover application pending for an FM translator construction permit in Anniston, W228BW,³ and two other pending FM translator construction applications requesting additional authorizations for Anniston.⁴

¹ See *Supplement to Comments of Calhoun Communications*, filed Apr. 9, 2005, providing evidence that WTDR already has an Anniston market “cume rating comparable to that of Anniston market stations” and a yellow pages advertisement in the phone directory for the greater Anniston area referencing “Thunder WTDR-FM IN ANNISTON & OXFORD.” See also *Comments of Calhoun Communications*, filed Mar. 29, 2005, showing similar marketing efforts at the station’s website.

² See FCC File No. BPH-20030414ABK, granted on Sept. 11, 2003.

³ In FCC File No. BLFT-20050414ABG.

⁴ In FCC File Nos. BNPFT-20030312AVY and BNPFT-20030312AVS.

Although Jacobs stated that it had no intention of moving its transmitter closer into Anniston, should WTDR be allowed to relocated to Munford, Jacobs has also not stated that it would accept a grant of the proposed reallocation of WTDR conditioned on a pledge that it will move no closer to Anniston, as noted in the *Sur-Reply of Calhoun Communications*, filed Apr. 27, 2005.

III. Discussion

Munford is Not Independent of the Anniston Urbanized Area.

The Commission elucidated an eight-part analysis in *Tuck* for use when determining whether a community is interdependent on a larger nearby community. When interdependence is evident, the community does not qualify for an allotment.

This analysis demonstrates that Munford is highly interdependent with the adjacent Anniston Urbanized Area. When a town proposed as a reallocated community of license is heavily interdependent with an adjacent urbanized area, *Tuck* instructs the Commission to deny the reallocation when the existing station allotment is superior because the allocation proposes only a redundant service to a larger community already well served by several radio stations. WTDR should not, therefore, be permitted to relocate to Munford, as it will only result in Anniston gaining a sixth full power broadcast service at the expense of Talladega, a county seat, which would lose its only FM service, and be left with just one AM service.⁵

The eight-part *Tuck* analysis asks: "(1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and

⁵ WNUZ, a 1kW AM station would remain after the Commission approves the license to cover relocating WZLM(FM) from Talladega to Goodwater, AL, in FCC File No. BLH-20050202ADU.

interests; (3) whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries.” *Tuck* at ¶ 36.

The facts about Munford, in light of these eight factors, weigh heavily toward the conclusion that the town is interdependent, for the following reasons:

- (1) Munford is home to certain retail and industrial workplaces. But Census figures indicate that the average Munford resident commutes more than 21 minutes by car to his or her place of employment.⁶ Given Munford’s size, this statistic suggests that the average Munford resident travels out of town for work.
- (2) Munford lacks hometown media. No newspaper is published there – not weekly, daily or even monthly. The Anniston Star provides coverage of Munford both in its print and online editions. Munford has no radio or

⁶ Source: 2000 U.S. Census Data, found at http://factfinder.census.gov/servlet/SAFFacts?_event=Search&geo_id=&_geoContext=&_street=&_county=munford&_cityTown=munford&_state=04000US01&_zip=&_lang=en&_sse=on&pctxt=fph&pgsl=010 (visited June 20, 2005).

television, nor even a homegrown website providing local news, information or civic debate.

- (3) Munford has no hometown chapters of such civic organizations as the Kiwanis Club, Rotary Club, Lion's Club, the Moose Lodge or The American Legion. The nearest post of the Veterans of Foreign Wars is in Anniston. Indeed, even Munford's local merchants have not seen fit to establish a chamber of commerce. The presence of such community organizations has long been a significant indicator of community status, as they show "residents function and conceive of the themselves as residents of a community, around which their interests coalesce," *Malone and Owls Head, New York*, 3 FCC Rcd 5243 (1988) at ¶ 5 (citing *Yorktown, Virginia*, 38 FR 6695 (1973)), rather than resident of a bedroom town part of a larger regional community – as is the case with Munford.
- (4) Munford does have a municipal government. But it provides very limited services. Police protection and public schools are county services. Munford lacks any public library. These facts have similarities to those in *Malone and Owls Head, supra*, in which the Commission found no community existed, albeit in an unincorporated township. However, the Commission has also made clear that the lack of a showing that such services are provided by the municipality undermines claims to community status, even in an incorporated town with an elected government. *Pleasant Dale, Nebraska*, 14 FCC Rcd 18893 (1999) at ¶ 6. In Munford, fire protection is provided through a local

volunteer organization – but this represents a marked exception to the general lack of municipal or community services based in Munford itself.

- (5) Munford lacks its own telephone book. It does have its own zip code and post office, as do many bedroom communities. The Commission has regularly stated that “the presence of a zip code and/or post office is not sufficient to establish ‘community’ status.” *Moncks Corner, Kiawah Island and Sampit, South Carolina*, 11 FCC Rcd 8630, 8637 (1996) at ¶ 15 (citing *Coker, Alabama*, 43 RR 2d 190 (1978)). See also *Pleasant Dale, Nebraska, supra*, (citing *Broadview, Montana*, 64 FR 51470 (1999)).
- (6) Munford lacks health care facilities and public transportation systems within its borders. The nearest hospital and mass transit services are in Anniston. Munford does host a handful of retail establishments. But these are typical of merchants serving bedroom communities – including grocery and drug stores. As noted, local merchants have so little local identification that that they have not even formed their own local chamber of commerce.
- (7) Lacking its own media, as indicated above, Munford’s local advertising market is limited to mailers, flyers and signposts. The local advertising focus comes from the nearby Anniston-Oxford media market.
- (8) As noted above, Munford relies on county-provided police protection and public schools; the nearest hospital is in Anniston.


Aside from its nominal local government, volunteer fire department, post office and zip code, Munford relies wholly on institutions outside its borders to provide most of the services and civic connections that provide indicia of independent community life elucidated in *Tuck*. The jobs, media, advertising, police, schools, and civic organizations that serve the residents of Munford are simply *not* homegrown and not separate from adjacent communities – including the Anniston Urbanized Area. Therefore, Munford does not qualify as an independent community under *Tuck*, and the Commission must reject this attempt to move WTDR into the lucrative Anniston market by pretending that this crossroads bedroom town is more than it really is.

IV. Conclusion

When the analytic framework of *Tuck* is applied to the situation at hand, Munford's lack of civic groups, local commercial identity, media or independent advertising demonstrates that Munford does not qualify as a community independent from the adjacent Anniston Urbanized Area. While it is true that Munford has a nominal local government, volunteer fire department, post office and zip code, these factors are vastly outweighed by those demonstrating that Munford is a crossroads bedroom community that relies on adjacent areas for health care, transportation, police, and public schools, and much of its commercial activity. Therefore, *Tuck* instructs that the Commission should not allow the allocation of WTDR to Munford, as it would do nothing but move a station into a far more well-served Anniston Urbanized Area from Talladega, which is dramatically less well-served by broadcast stations. Such a development

would not comport with Section 307(b) of the Communications Act or established Commission policies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael W. Richards", written over a horizontal line.

Howard M. Weiss
Michael W. Richards
Counsel to Calhoun Communications

Fletcher, Heald & Hildreth PLC
1300 N. 17th Street, 11th Floor
Arlington, Virginia 22209-3801
Phone: 703-812-0400

June 20, 2005

CERTIFICATE OF SERVICE

I, Evelyn Thompson, a secretary at Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing "Comments of Calhoun Communications" was sent on this 20th day of June, 2005, via First-Class United States mail, postage pre-paid, or as otherwise specified, to the following:

Cary S. Tepper, Esquire
Booth Freret Imlay & Tepper, PC
7900 Wisconsin Avenue
Suite 304
Bethesda, Maryland 20814-3628


Evelyn Thompson